

REMARKS

Applicant requests reconsideration and allowance of the present application in view of the foregoing amendments and the following remarks.

Claims 1 and 3-17 are pending in the present application. Claims 1, 5, 9 and 13 are the independent claims.

Claim 2 has been cancelled without prejudice or disclaimer. Claim 1 has been amended. No new matter is believed to have been added.

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,337,468 (Worthington et al.). Claims 2-17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Worthington in view of U.S. Patent No. 5,708,920 (Ohnishi et al.). All rejections are respectfully traversed.

It is to be appreciated that independent claim 1 has been amended to recite features of cancelled claim 2.

Worthington et al. relates to a rapid recovery oven control and method and describes an oven in which normal temperature cycling is differentiated from an abnormal event causing temperature drift. The Office Action concedes that the Worthington et al. does not teach or suggest any of the features of claims 2-4, 6-8, 10-12, and 14-17 and various features of claims 5, 9, and 13. Nonetheless, the Office Action rejects claims 2-17 under 35 U.S.C. § 103 contending that Ohnishi et al. provides the necessary teaching or suggestion.

Applicant respectfully submits that the proposed modification of Worthington et al. in view of Ohnishi et al. is improper at least because the cited documents are nonanalogous art and one of ordinary skill in the art would not be motivated to combine the cited documents.

The Manual of Patent Examining Procedure (MPEP) instructs that:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

(MPEP, Section 2143, 8th Edition, revised May 2004). However, Applicant respectfully submits that the requisite motivation is not present to modify Worthington in view of Ohnishi et al.

As explained above, Worthington et al. relates to a rapid recovery oven control and method. However, Ohnishi et al. relates to image forming devices. Absent from the Office Action is an articulation as to why one of ordinary skill in the art would look to teachings relating to a heated toner roller (Ohnishi et al.) when trying to modify an electric oven (Worthington et

al.). Further, Applicant respectfully submits that one of ordinary skill in the electric cooking apparatus art would not be motivated to look to the image forming apparatus art. Indeed, the limited scope of the Ohnishi et al. patent is acknowledged by the Office Action which states that Ohnishi et al. is cited for its alleged teaching that "these hysteresis and duty cycle ranges as common when used in a temperature control device for a roller." (Office Action, page 2) (emphasis added).

Accordingly, favorable reconsideration and withdrawal of the rejection of independent claims 1, 5, 9, and 13 under 35 U.S.C. § 103 are respectfully requested.

In view of the foregoing, Applicant respectfully submits that the independent claims patentably define the present invention over the citations of record. Further, the dependent claims should also be allowable for the same reasons as their respective base claims and further due to the additional features that they recite. Separate and individual consideration of the dependent claims is respectfully requested.

Applicant believes that the present Amendment is responsive to each of the points raised by the Examiner in the Official Action. However, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to such matters.

There being no further outstanding objections or rejections, it is submitted that the present application is in condition for allowance. An early action to that effect is courteously solicited.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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Date: July 18, 2005

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